

ESTTA Tracking number: **ESTTA688490**

Filing date: **08/10/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	ZIYLAN MAGAZACILIK VE PAZARLAMA ANONIM SIRKETI		
Entity	joint stock company	Citizenship	Turkey
Address	Merkez Mahallesi Tasocagi Caddesi No.24 K.3, Mahmutbey Bagcilar Istanbul, TURKEY		

Attorney information	John S. Egbert Egbert Law Offices, PLLC 1314 Texas, 21st Floor Houston, TX 77002 UNITED STATES mail@egbertlawoffices.com Phone:713-224-8080
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### Applicant Information

Application No	86522757	Publication date	07/14/2015
Opposition Filing Date	08/10/2015	Opposition Period Ends	08/13/2015
Applicant	Weiler, Brad 625 East 4th Street Owen, WI 54460 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Shirts, t-shirts, spandex shorts, tank tops, sweatshirts, sweatpants, hooded sweatshirts, shorts, coats, swimwear, bathing suits, swimming suits, swimming shorts, underwear, undergarments, bras, sports bras, pants, jackets, pullovers, polos, button-up shirts, headwear, hats, caps, stocking hats, socks, wristbands, headbands, footwear, shoes, sandals, boots, work boots, training shoes, slippers, scarfs, gloves, mittens

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4642988	Application Date	06/27/2013
Registration Date	11/25/2014	Foreign Priority Date	04/19/2013
Word Mark	LUMBERJACK		

Design Mark	
Description of Mark	The mark consists of the design of the upper portion of a maple leaf in green, red and white, followed by the wording "LUMBERJACK" in a red, stylized font.
Goods/Services	<p>Class 018. First use: First Use: 0 First Use In Commerce: 0</p> <p>Leather and imitations of leather; goods made of these materials and not included in other classes, namely, travel bags, valises, wallets, handbags, backpacks for carrying babies, book bags, briefcases, backpacks, school bags, leather shopping bags, leather cases for banknotes, leather and stout leather boxes; animal skins, processed hides and rawhide; trunks and traveling bags; umbrellas and parasols; walking sticks; whips, harness and saddlery</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0</p> <p>Clothing, namely, trousers, jackets, overcoats, coats, skirts, suits, jerseys, waistcoats, shirts, ready-made and finished leather linings for garments, T-shirts, sweatshirts, dresses, Bermuda shorts, shorts, pajamas, pullovers, jeans, track suits, rainwear, beachwear, bathing suits, swimming suits, socks; clothing for sports, namely, sport shirts, sport bras, sport jackets, sport jerseys, sport pants; footwear, namely, shoes excluding orthopedic shoes, sandals, waterproof boots, walking boots, booties, sporting shoes, slippers; headgear, namely, caps, skull caps, sports caps, hats, berets</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0</p> <p>Advertising, business management, business administration, providing office functions; bringing together for the benefit of others of a variety of goods, especially leather and leather and imitationsof leather, goods made of these materials, bags, leather and stout leather boxes, animal skins, processes hides or rawhide, trunks and traveling bags, umbrellas and parasols, walking sticks, whips, harness and saddlery, clothing, socks, footwear and headgear, enabling customers to conveniently view and purchase those goods, such services may be provided by retail stores, wholesale outlets, through mail order catalogues or by means of electronic media for example through websites or television shopping programs</p>

Attachments	79139677#TMSN.png( bytes ) 1285-854 Notice of Opposition.pdf(834880 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/1285-854/
Name	John S. Egbert
Date	08/10/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 86/522,757  
Published in the Official Gazette on July 14, 2015

ZIYLAN MAGAZACILIK VE  
PAZARLAMA ANONIM SIRKETI,

Opposer,

v.

Brad Weiler,

Applicant.

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Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

The Opposer, ZIYLAN MAGAZACILIK VE PAZARLAMA ANONIM SIRKETI ("Opposer"), a joint stock company organized under the laws of Turkey and located at Merkez Mahallesi Tasocagi, Caddesi No.24 K.3, Mahmutbey Bagcilar, Istanbul, Turkey, believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. The Applicant, Brad Weiler ("Applicant"), an individual and citizen of the United States, with an address of 625 East 4th Street, Owen, Wisconsin 54460, has filed an application to register the "LUMBERJACKED" mark for use in connection with "Shirts, t-shirts, spandex shorts, tank tops, sweatshirts, sweatpants, hooded sweatshirts, shorts, coats, swimwear, bathing suits, swimming suits, swimming shorts, underwear, undergarments, bras, sports bras, pants, jackets, pullovers, polos, button-up shirts, headwear, hats, caps, stocking hats, socks, wristbands, headbands, footwear, shoes, sandals, boots, work boots, training shoes, slippers, scarfs, gloves, mittens" in

International Class 025. Said application was filed on February 3, 2015 under Section 1(b) of the Trademark Act, was assigned U.S. Application No. 86/522,757, and was published for Opposition in the Official Gazette on July 14, 2015.

2. Opposer is a leading manufacturer and seller of various products, including clothing in International Class 025.

3. Long prior to the filing date of Applicant's "LUMBERJACKED" mark, and long prior to any alleged priority date of Applicant, Opposer has engaged, and is now engaged in the manufacture, distribution, sale, advertising and promotion in interstate commerce of clothing in International Class 025. Furthermore, Opposer filed on June 27, 2013, an application under Section 66(a) of the Trademark Act for registration of its "LUMBERJACK AND DESIGN" mark in the United States. This trademark was registered November 25, 2014.

4. In connection therewith, Opposer is the owner of the "LUMBERJACK AND DESIGN" mark, (hereinafter "Opposer's Mark"), U.S. Reg. No. 4,642,988, filed on June 27, 2013 and registered November 25, 2014, for various goods and services in Classes 18, 25, and 35, including "Clothing, namely, trousers, jackets, overcoats, coats, skirts, suits, jerseys, waistcoats, shirts, ready-made and finished leather linings for garments, T-shirts, sweatshirts, dresses, Bermuda shorts, shorts, pajamas, pullovers, jeans, tracksuits, rainwear, beachwear, bathing suits, swimming suits, socks; clothing for sports, namely, sport shirts, sport bras, sport jackets, sport jerseys, sport pants; footwear, namely, shoes excluding orthopedic shoes, sandals, waterproof boots, walking boots, booties, sporting shoes, slippers; headgear, namely, caps, skull caps, sports caps, hats, berets" in International Class 025 with a constructive first use in commerce in the United States since at least as early as June 27, 2013. *See* [Exhibit A, U.S. Reg. No. 4,642,988].

5. Opposer's use of its "LUMBERJACK AND DESIGN" mark, as reflected by U.S. Reg. No. 4,642,988, has a constructive first use date of June 27, 2013.

6. Such constructive first use date for Opposer's "LUMBERJACK AND DESIGN" Mark is long prior to the filing date of Applicant's "LUMBERJACKED" mark, Application No. 86/522,757, filed on February 3, 2015, based on intent to use.

7. Applicant's "LUMBERJACKED" mark would be confusingly similar because:

- a. the mark is confusingly similar in appearance to Opposer's Mark;
- b. the mark is confusingly similar in sound to Opposer's Mark;
- c. the mark is confusingly similar in connotation to Opposer's Mark;
- d. the goods of Opposer and the goods of Applicant are closely related and/or marketed through the same or overlapping channels of trade and/or to the same classes of consumers;
- e. Opposer's Mark enjoys a high level of distinctiveness.

8. Opposer has made a substantial investment in advertising and promoting its goods under Opposer's Mark throughout the world and in the United States. Opposer has extensively used, advertised, promoted and offered Opposer's goods bearing Opposer's Mark to the public throughout the world and in the United States through various channels of trade in commerce, with the result that Opposer's customers and the public in general have come to know and recognize Opposer's Mark and associate the same with Opposer and/or goods sold by Opposer. As a result of such extensive use and advertisement, Opposer's customers and the public in general will in the future know and recognize Opposer's Mark and associate the same with Opposer and/or the goods sold by Opposer.

9. Opposer's Mark constitutes the lawful, valued, subsisting, and exclusive property of the Opposer. As a result of the high quality of Opposer's goods that are sold under Opposer's Mark, and the extensive sales and advertising made under Opposer's Mark throughout the world and in the

United States, the aforementioned mark has become an intrinsic and essential part of the valuable goodwill and property of Opposer, and is recognizable and associated by the public as a symbol identifying and distinguishing Opposer's goods as those of exceptional quality.

10. Applicant's "LUMBERJACKED" Mark, U.S. Application No. 86/522,757, so resembles Opposer's Mark as to be likely to cause confusion or mistake, to suggest a connection, or to deceive purchasers into believing that Applicant's goods originate with the Opposer and/or are endorsed or sponsored by the Opposer, and/or that Applicant and/or its goods are otherwise affiliated with the Opposer and its goods and services.

11. Use of Applicant's "LUMBERJACKED" mark will inexorably have an adverse effect upon the value of Opposer's Mark. If this Opposition is not sustained, any defect, objection to, or fault found with Applicant's goods and services provided under the "LUMBERJACKED" mark would necessarily reflect on and seriously injure the valuable goodwill and reputation that Opposer has established, and will establish, for its goods and services.

12. Based on the foregoing arguments, registration of the mark "LUMBERJACKED" for use in connection with "Shirts, t-shirts, spandex shorts, tank tops, sweatshirts, sweatpants, hooded sweatshirts, shorts, coats, swimwear, bathing suits, swimming suits, swimming shorts, underwear, undergarments, bras, sports bras, pants, jackets, pullovers, polos, button-up shirts, headwear, hats, caps, stocking hats, socks, wristbands, headbands, footwear, shoes, sandals, boots, work boots, training shoes, slippers, scarfs, gloves, mittens" in International Class 025, as found in U.S. Application No. 86/522,757, filed on February 3, 2015 and published for Opposition in the Official Gazette on July 14, 2015, will cause injury and damage to Opposer.

WHEREFORE, Opposer respectfully requests that the Trademark Trial and Appeal Board find and order that registration by Applicant of the mark "LUMBERJACKED" in classes 025 be denied as damaging to the Opposer and that this opposition is sustained.

Opposer hereby submits the requisite filing fee of \$300.00 for opposing Applicant's application in International Classes 025.

Respectfully submitted,

August 10, 2015  
Date

/1285-854/  
John S. Egbert  
Reg. No. 30,627  
Kevin S. Wilson  
Michael F. Swartz

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1314 Texas, 21st Floor  
Houston, Texas 77002  
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(713)223-4873 (Fax)

ATTORNEYS FOR OPPOSER  
ZIYLAN MAGAZACILIK VE PAZARLAMA  
ANONIM SIRKETI

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document is being sent by regular mail on August 10, 2015, to the correspondent of record for Applicant at the following address:

Mr. Brad Weiler  
625 East 4th Street  
Owen, Wisconsin 54460

CORRESPONDENT FOR APPLICANT  
Brad Weiler

\_\_\_\_\_  
/1285-854/

John S. Egbert  
Reg. No. 30,627  
Kevin S. Wilson  
Michael F. Swartz

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ATTORNEYS FOR OPPOSER  
ZIYLAN MAGAZACILIK VE PAZARLAMA  
ANONIM SIRKETI

JSE:mfs  
Our File: 1285-854



# Exhibit "A"

Generated on: This page was generated by TSDR on 2015-08-07 16:33:21 EDT

Mark: LUMBERJACK



US Serial Number: 79139677

Application Filing Date: Jun. 27, 2013

US Registration Number: 4642988

Registration Date: Nov. 25, 2014

Register: Principal

Mark Type: Trademark, Service Mark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Nov. 25, 2014

Publication Date: Sep. 09, 2014

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## Mark Information

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Mark Literal Elements: LUMBERJACK

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the design of the upper portion of a maple leaf in green, red and white, followed by the wording "LUMBERJACK" in a red, stylized font.

Color Drawing: Yes

Color(s) Claimed: The color(s) green, red and white is/are claimed as a feature of the mark.

Design Search Code(s): 05.03.25 - Other leaves; Leaf, single

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## Related Properties Information

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International Registration Number: 1184716

International Registration Date: Jun. 27, 2013

Claimed Ownership of US Registrations: 3262181

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## Goods and Services

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Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Leather and imitations of leather; goods made of these materials and not included in other classes, namely, travel bags, valises, wallets, handbags, backpacks for carrying babies, book bags, briefcases, backpacks, school bags, leather shopping bags, leather cases for banknotes, leather and stout leather boxes; animal skins, processed hides and rawhide; trunks and traveling bags; umbrellas and parasols; walking sticks; whips, harness and saddlery

International Class(es): 018 - Primary Class

U.S Class(es): 001, 002, 003, 022, 041

Class Status: ACTIVE

Basis: 66(a)

For: Clothing, namely, trousers, jackets, overcoats, coats, skirts, suits, jerseys, waistcoats, shirts, ready-made and finished leather linings for garments, T-shirts, sweatshirts, dresses, Bermuda shorts, shorts, pajamas, pullovers, jeans, tracksuits, rainwear, beachwear, bathing suits, swimming suits, socks; clothing for sports, namely, sport shirts, sport bras, sport jackets, sport jerseys, sport pants; footwear, namely, shoes excluding orthopedic shoes, sandals, waterproof boots, walking boots, booties, sporting shoes, slippers; headgear, namely, caps, skull caps, sports caps, hats, berets

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 66(a)

For: Advertising, business management, business administration, providing office functions; bringing together for the benefit of others of a variety of goods, especially leather and leather and imitations of leather, goods made of these materials, bags, leather and stout leather boxes, animal skins, processes hides or rawhide, trunks and traveling bags, umbrellas and parasols, walking sticks, whips, harness and saddlery, clothing, socks, footwear and headgear, enabling customers to conveniently view and purchase those goods, such services may be provided by retail stores, wholesale outlets, through mail order catalogues or by means of electronic media for example through websites or television shopping programs

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

## Basis Information (Case Level)

Filed Use: No	Currently Use: No	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: Yes	Currently 66A: Yes	
Filed No Basis: No	Currently No Basis: No	

## Current Owner(s) Information

**Owner Name:** ZIYLAN MAGAZACILIK VE PAZARLAMA ANONIM SIRKETI

**Owner Address:** Merkez Mahallesi Tasocagi  
Caddesi No.24 K.3, Mahmutbey Bagcilar  
Istanbul  
TURKEY

**Legal Entity Type:** Joint Stock Company      **State or Country Where Organized:** TURKEY

## Attorney/Correspondence Information

<b>Attorney of Record</b>	
<b>Attorney Name:</b> John S. Egbert	<b>Docket Number:</b> 1285-741
<b>Attorney Primary Email Address:</b> <a href="mailto:mail@egbertlawoffices.com">mail@egbertlawoffices.com</a>	<b>Attorney Email Authorized:</b> Yes
<b>Correspondent</b>	
<b>Correspondent Name/Address:</b> JOHN S. EGBERT EGBERT LAW OFFICES, PLLC 1314 TEXAS, 21ST FLOOR HOUSTON, TEXAS 77002 UNITED STATES	
<b>Phone:</b> 713-224-8080	<b>Fax:</b> 713-223-4873
<b>Correspondent e-mail:</b> <a href="mailto:mail@egbertlawoffices.com">mail@egbertlawoffices.com</a>	<b>Correspondent e-mail Authorized:</b> Yes
<b>Domestic Representative</b>	
<b>Domestic Representative Name:</b> John S. Egbert	<b>Phone:</b> 713-224-8080
<b>Fax:</b> 713-223-4873	
<b>Domestic Representative e-mail:</b> <a href="mailto:mail@egbertlawoffices.com">mail@egbertlawoffices.com</a>	<b>Domestic Representative e-mail Authorized:</b> Yes

## Prosecution History

Date	Description	Proceeding Number
May 08, 2015	FINAL DECISION TRANSACTION PROCESSED BY IB	
Apr. 20, 2015	FINAL DISPOSITION NOTICE SENT TO IB	
Apr. 20, 2015	FINAL DISPOSITION PROCESSED	76826
Feb. 25, 2015	FINAL DISPOSITION NOTICE CREATED, TO BE SENT TO IB	
Nov. 25, 2014	REGISTERED-PRINCIPAL REGISTER	
Sep. 09, 2014	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Sep. 09, 2014	PUBLISHED FOR OPPOSITION	
Aug. 20, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Aug. 05, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	68552
Aug. 03, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 03, 2014	EXAMINER'S AMENDMENT ENTERED	88888
Aug. 03, 2014	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Aug. 03, 2014	EXAMINERS AMENDMENT E-MAILED	6328
Aug. 03, 2014	EXAMINERS AMENDMENT -WRITTEN	82432

Aug. 03, 2014	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Jun. 11, 2014	WITHDRAWN FROM PUB OTQR REQUEST	76569
Jun. 03, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	68552
May 26, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 08, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	68552
May 08, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	68552
Apr. 29, 2014	ASSIGNED TO LIE	68552
Apr. 14, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 12, 2014	REFUSAL PROCESSED BY IB	
Jan. 31, 2014	NEW REPRESENTATIVE AT IB RECEIVED	
Dec. 26, 2013	NON-FINAL ACTION MAILED - REFUSAL SENT TO IB	
Dec. 26, 2013	REFUSAL PROCESSED BY MPU	67445
Dec. 21, 2013	NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW	
Dec. 20, 2013	NON-FINAL ACTION WRITTEN	82432
Dec. 17, 2013	APPLICATION FILING RECEIPT MAILED	
Dec. 13, 2013	ASSIGNED TO EXAMINER	82432
Dec. 13, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Dec. 12, 2013	SN ASSIGNED FOR SECT 66A APPL FROM IB	

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### International Registration Information (Section 66a)

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International Registration Number: 1184716

International Registration Date: Jun. 27, 2013

Priority Claimed Flag: Yes

Date of Section 67 Priority Claim: Apr. 19, 2013

Intl. Registration Status: REQUEST FOR EXTENSION OF PROTECTION PROCESSED

Date of International Registration Status: Dec. 12, 2013

Notification of Designation Date: Dec. 12, 2013

Date of Automatic Protection: Jun. 12, 2015

International Registration Renewal Date: Jun. 27, 2023

First Refusal Flag: Yes

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### TM Staff and Location Information

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TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 25, 2014



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**No assignment has been recorded at the USPTO**

**For Serial Number: 79139677**

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.5  
Web interface last modified: July 25, 2014 v.2.5

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